

IC 25-24

ARTICLE 24. OPTOMETRISTS

IC 25-24-1

Chapter 1. Regulation of Optometrists) Creation of Board

IC 25-24-1-1

Sec. 1. (a) There is created the Indiana optometry board (referred to in this chapter as the board), whose duty it shall be to carry out this chapter. The board shall consist of six (6) members appointed by the governor. Five (5) of these members must have been resident optometrists, licensed under this chapter, engaged in the actual practice of optometry in Indiana for a period of five (5) years prior to their appointment, and not more than three (3) of the optometrist members may belong to the same political party. The sixth member of the board, to represent the general public, shall be a resident of this state who has never been associated with optometry in any way other than as a consumer. The appointed members shall serve for a term of three (3) years each, and each shall hold his office until his successor is appointed. Appointment to fill vacancies from any cause shall be made by the governor for the residue of the term. The members of the board, before entering on their duties, shall each take and subscribe to the oath required to be taken by other state officers, which shall be administered by the secretary of state and filed in his office; and the board shall have a common seal. The board:

- (1) shall administer oaths and take affidavits as required by this chapter, certified under the hand and the seal of the board;
- (2) shall require the attendance of witnesses and the production of books, records, and papers pertinent to any matters coming before the board; and
- (3) for that purpose may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, papers, or documents, directed to the sheriff of the county where the witness resides or is to be found, which shall be served and returned in the same manner as subpoenas in civil actions in the circuit court are served and returned.

(b) The board shall adopt rules, and do any and all things not inconsistent with this chapter which may be necessary or expedient for the effective enforcement of this chapter, for the full and efficient performance of its duties under this chapter, and for the reasonable regulation of the profession and practice thereof by persons licensed under this chapter.

(c) The board shall adopt rules, not inconsistent with this chapter, governing applicants and applications for license under this chapter and governing the examination of applicants before beginning the practice of optometry in this state, and shall establish a schedule of qualifications of applicants, and a schedule of the minimum requirements with which applicants for examination must comply before they can be examined or receive a license, which schedules of qualifications of applicants and of minimum requirements shall be kept in a record for that purpose by the board.

(d) The board shall establish and record, in a record kept for that purpose, a schedule of the minimum requirements and rules for the recognition of schools of optometry, so as to keep the requirements of proficiency up to the average standard of other states.

(e) The board shall adopt rules establishing standards for the competent practice of optometry.

(f) The board shall assist in the prosecution of any violation of this chapter and assist in the enforcement of this chapter.

(g) The board shall utilize, when expedient, an agent whose title shall be inspector of the board, who shall hold office during the pleasure of the board and who shall, while in office, serve and execute any process or order issued by the board under this chapter. Such agents may enter any optometrist's establishment or any place where the optometrist is located for the purpose of practicing the optometry profession to inspect the premises and the licenses of all optometrists operating therein, and the inspector may inspect all instruments and patient records used in the conduct of the profession and all ophthalmic materials which are to be delivered to the public.

(h) The board shall utilize the services of attorneys and other necessary assistants in carrying out this chapter.

(i) The board may:

- (1) grant or refuse to grant licenses as provided in this chapter;
- (2) place any licensee on probation; and
- (3) revoke or suspend the license, as provided in this chapter, of any optometrist for any violation of this chapter or for a violation of any rule of the board.

(j) The board has such other powers and duties as may be provided in this chapter.

(Formerly: Acts 1907, c.187, s.1; Acts 1913, c.359, s.2; Acts 1919, c.207, s.1; Acts 1929, c.45, s.1; Acts 1935, c.38, s.1.) As amended by Acts 1977, P.L.172, SEC.31; Acts 1979, P.L.17, SEC.47; Acts 1981, P.L.222, SEC.177; Acts 1982, P.L.113, SEC.60; P.L.169-1985, SEC.79.

IC 25-24-1-2

Sec. 2. The board shall annually elect from its members a president and secretary. The board shall meet at least once each year, at Indianapolis, Indiana, and in addition thereto whenever and wherever the president and secretary thereof shall call a meeting; a majority of the board shall at all times constitute a quorum. The secretary provided for the board shall keep a full record of the proceedings of the board, which record shall at all reasonable times be open to public inspection.

(Formerly: Acts 1907, c.187, s.2; Acts 1935, c.38, s.2.) As amended by Acts 1981, P.L.222, SEC.178; Acts 1982, P.L.113, SEC.61.

IC 25-24-1-3

Sec. 3. (a) Every person, except those exempted under this chapter, or those excepted from the taking of an examination under this chapter, before beginning the practice of optometry in this state, must pass an examination which shall be given or approved by the board.

(b) Any person desiring to be licensed by the board must fill out an

application furnished by the board, which application must be verified by the applicant, and the applicant must file the verified application with the board. The applicant shall pay an application fee set by the board under section 1 of this chapter. If the applicant meets the requirements for licensure the applicant shall pay a further sum set by the board under section 1 of this chapter before the board may issue a license to the applicant.

(c) All persons successfully passing the examination and meeting the requirements of the board shall be registered in a record and shall also receive a license to be signed by the president and secretary of the board.

(d) Any applicant may, at the discretion of the board, be licensed if the applicant presents evidence that the applicant has been issued a license by any other state where the requirements for licensure are, in the opinion of the board, equivalent to the requirements for licensure in this state, provided that the applicant has not previously failed an examination given or approved by the board. The fee for licensing such applicant shall be set by the board under section 1 of this chapter.

(e) A license issued under this section is valid for the remainder of the renewal period in effect on the date of issuance.

(Formerly: Acts 1907, c.187, s.3; Acts 1919, c.207, s.2; Acts 1935, c.38, s.3; Acts 1973, P.L.258, SEC.1.) As amended by Acts 1977, P.L.172, SEC.32; Acts 1981, P.L.222, SEC.179; P.L.169-1985, SEC.80; P.L.149-1987, SEC.68; P.L.33-1993, SEC.43.

IC 25-24-1-3.1

(Repealed by P.L.33-1993, SEC.74.)

IC 25-24-1-3.2

Sec. 3.2. (a) Notwithstanding section 3 of this chapter, the board may issue or renew a limited license to practice optometry at the Indiana University School of Optometry if the applicant:

- (1) holds an active license in another jurisdiction; and
- (2) meets the continuing education requirements under section 14.1 of this chapter.

(b) A limited license issued under this section is valid for two (2) years.

(c) A limited license issued under this section does not allow the holder of the license to be granted or have renewed a certificate to administer, dispense, or prescribe legend drugs unless the holder of the license meets the requirements of IC 25-26-15-15, IC 25-26-15-16, and IC 25-26-15-18.

As added by P.L.234-1995, SEC.19 and P.L.235-1995, SEC.9.

IC 25-24-1-4

Sec. 4. The practice of optometry is hereby defined to be any one of the following acts, or any combination of, or part of the following acts:

(a) The examination or diagnosis of the human eye, to ascertain the presence of abnormal conditions or functions which may be diagnosed, corrected, remedied or relieved, or the application or prescription of lenses, prisms, exercises, or any physical, mechanical, physiological or

psychological therapy, or the employment of any means, for the purpose of detecting any diseased or pathological condition of the eye, or the effects of any diseased or pathological condition of the eye, which may have any significance in a complete optometric diagnosis of the eye or its associated structures.

(b) The application, use, or adaption of physical, anatomical, physiological, psychological or any other principles through scientific professional methods and devices, to the examination of the eyes and vision, measuring their function for the purpose of determining the nature and degree of their departure from the normal, if any, and adopting optical, physiological and psychological measures and/or the furnishing or providing any prosthetic or therapeutic devices for the emendation thereof.

(Formerly: Acts 1907, c.187, s.4; Acts 1913, c.359, s.3; Acts 1919, c.207, s.3; Acts 1935, c.38, s.4.)

IC 25-24-1-5

Sec. 5. Nothing in this chapter shall be considered to apply to physicians and surgeons who have been authorized to practice medicine, surgery (as described in IC 25-22.5-1-1.1(a)(1)(C)), and obstetrics under the laws of the state of Indiana.

(Formerly: Acts 1907, c.187, s.6; Acts 1935, c.38, s.5.) As amended by Acts 1982, P.L.154, SEC.85; P.L.217-1993, SEC.3.

IC 25-24-1-6

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-24-1-7

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-24-1-8

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-24-1-9

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-24-1-10

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-24-1-11

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-24-1-12

IC 25-24-1-12 Sec. 12. Every person who is granted a license under this article shall display it in a conspicuous part of the office in which the licensee practices optometry. Whenever practicing the profession of optometry outside of, or away from, the office or place of business, the licensee shall make available to each patient or person fitted with ophthalmic materials the licensee's name, office address, and number of the license.

(Formerly: Acts 1907, c.187, s.14.) As amended by Acts 1977, P.L.172, SEC.33; P.L.169-1985, SEC.81.

IC 25-24-1-13

Sec. 13. Each member of the board may receive as compensation a salary per diem for each day actually engaged in the duties of his office and necessary travel expenses incurred in attending the meetings of the board in accordance with travel policies and procedures established by the department of administration and the state budget agency. All expenses shall be paid from the general fund upon appropriation being made therefor in the manner provided by law for the making of such appropriations. All fees and assessments received under the provisions of this chapter shall be deposited with the treasurer of the state of Indiana, and be deposited by him in the general fund of the state. The treasurer shall pay the per diem expenses as provided herein only on the itemized verified statement of the person entitled thereto. In accordance with IC 25-1-5, said board is expressly authorized to use any part of said appropriated funds available for the purpose of assisting in prosecuting any person violating any of the provisions of this chapter, or for the purpose of enforcing by legal action, any of the provisions of this chapter.

(Formerly: Acts 1907, c.187, s.15; Acts 1913, c.359, s.5; Acts 1919, c.207, s.4; Acts 1935, c.38, s.8.) As amended by Acts 1976, P.L.119, SEC.17; Acts 1981, P.L.222, SEC.180.

IC 25-24-1-14

Sec. 14. (a) In each even-numbered year, the bureau shall issue a sixty (60) day notice of expiration and a license renewal application in accordance with IC 25-1-5-4 to each optometrist licensed in Indiana. The application shall be mailed to the last known address of the optometrist and shall contain spaces for the insertion of the licensee's name, address, date, and number of the license, and such other information and questions as the board considers necessary. The licensee shall complete, sign, and return the application for license renewal, together with a fee set by the board under section 1 of this chapter, before April 1 of each even-numbered year.

(b) Upon the receipt of the application and fee, and upon the same being properly verified, the board shall issue a renewal of license.

(c) The payment of the renewal fee must be made on or before April 1 of each even-numbered year. The applicant's license expires and becomes invalid if the applicant has not paid the renewal fee by April 1 of each even-numbered year. The license may be reinstated by the board up to three (3) years after its expiration if the applicant for reinstatement:

- (1) pays a penalty fee set by the board under section 1 of this chapter;
- (2) pays the renewal fee set by the board under section 1 of this chapter; and
- (3) provides evidence of obtaining the continuing education required by the board under section 1 of this chapter for each year, or portion of a year, during which the applicant's license was

expired.

(d) Reinstatement of an expired license after the expiration of the three (3) year period provided in subsection (c) is dependent upon reexamination of the applicant by the board.

(e) The board may classify a license as inactive if the board receives written notification from a licensee stating that the licensee will not maintain an office or practice optometry in Indiana. The renewal fee for an inactive license is one-half (1/2) the license renewal fee set by the board under section 1 of this chapter.

(f) The holder of an inactive license is not required to fulfill continuing education requirements set by the board. The board may issue a license to the holder of an inactive license if the applicant:

- (1) pays the renewal fee set by the board under section 1 of this chapter;
- (2) pays the reinstatement fee set by the board under section 1 of this chapter; and
- (3) provides evidence of obtaining the continuing education required by the board under section 1 of this chapter for each year, or portion of a year during which the applicant's license has been classified as inactive.

(Formerly: Acts 1907, c.187, s.16; Acts 1925, c.193, s.1; Acts 1929, c.45, s.2; Acts 1935, c.38, s.9; Acts 1972, P.L.187, SEC.1; Acts 1973, P.L.258, SEC.2.) As amended by Acts 1977, P.L.172, SEC.34; Acts 1981, P.L.229, SEC.1; Acts 1981, P.L.222, SEC.181; P.L.169-1985, SEC.82; P.L.149-1987, SEC.70; P.L.48-1991, SEC.43.

IC 25-24-1-14.1

Sec. 14.1. No biennial renewal license shall be issued by the board until the applicant submits proof satisfactory to the board that subsequent to the issuance of his license, or last renewal thereof, he has completed continuing professional education, including postgraduate studies, institutes, seminars, lectures, conferences, workshops, and such other forms of continuing professional education as may be approved by the board. The number of hours and other requirements relating to this section shall be established by the board.

(Formerly: Acts 1973, P.L.259, SEC.1.) As amended by Acts 1977, P.L.172, SEC.35; Acts 1981, P.L.229, SEC.2.

IC 25-24-1-15

(Repealed by Acts 1981, P.L.222, SEC.296.)

IC 25-24-1-15.1

(Repealed by P.L.152-1988, SEC.30.)

IC 25-24-1-16

(Repealed by Acts 1981, P.L.222, SEC.296.)

IC 25-24-1-17

Sec. 17. The following are unlawful and a violation of this chapter:

- (1) For any person or persons to open an office for the purpose of practicing optometry in this state, or to announce to the public in

any way an intention to practice optometry in any county in this state, without first having obtained a license from the board.

(2) For any person or persons, except a licensed optometrist or optometrists under this chapter whose licenses have not been revoked or lapsed, to hold himself out by the use of any sign, newspaper, advertisement, pamphlet, circular, or any other means as qualified to practice optometry.

(3) For any person or persons, except a licensed optometrist or optometrists under this chapter whose licenses have not been revoked or lapsed, to have possession of any trial lenses, trial frames, graduated test cards, or other appliances or instruments used in the practice of optometry for the purpose of rendering assistance to patrons in the selection of contact lenses, lenses, or eyeglasses, or to sell ophthalmic lenses or to replace broken contact lenses or lenses in eyeglasses except upon the prescription of a regularly licensed optometrist, or a physician and surgeon exempted by this chapter. An ophthalmic lens, within the meaning of this chapter, is any lens which has a spherical or cylindrical or prismatic power or value and is ground pursuant to a prescription.

(4) For any person, not licensed under this chapter or who has not paid the annual renewal fee as in this chapter provided to be paid, to practice optometry as defined in this chapter.

(Formerly: Acts 1907, c.187, s.18; Acts 1929, c.45, s.3; Acts 1935, c.38, s.12.) As amended by Acts 1977, P.L.172, SEC.38; P.L.252-1983, SEC.1.

IC 25-24-1-18

Sec. 18. A person who violates this chapter commits a Class B misdemeanor.

(Formerly: Acts 1907, c.187, s.19; Acts 1913, c.359, s.7; Acts 1929, c.45, s.4.) As amended by Acts 1978, P.L.2, SEC.2544.

IC 25-24-1-19

Sec. 19. (a) Whenever it appears to the board that any person or persons are engaged in the illegal practice of optometry as defined by this chapter, or that any person or persons are engaged in the practice of optometry without a license as required by this chapter, or that any person or persons are engaged in the practice of optometry in violation of this chapter, then the board, may, in addition to any other remedies provided for in this chapter, bring an action in the name of the state, on the relation of the board, against such person or persons, or against any other person or persons concerned in or in any way participating in such illegal practice of optometry as defined by this chapter, or against any person or persons engaged in the practice of optometry without a license as required by this chapter, or against any person or persons engaged in the practice of optometry in violation of this chapter, to enjoin such person or persons, or such other person or persons:

(1) from continuing the illegal practice of optometry as defined by this chapter;

(2) from engaging in the practice of optometry without a license as required by this chapter;

(3) from engaging in the practice of optometry in violation of this chapter; or

(4) from doing any other act or acts in furtherance thereof.

(b) In an action under subsection (a), a judgment may be entered awarding such injunction as may be proper.

(Formerly: Acts 1907, c.187, s.19a; Acts 1935, c.38, s.13.) As amended by Acts 1977, P.L.172, SEC.39; P.L.169-1985, SEC.84.

IC 25-24-1-20

Sec. 20. All certificates issued by the Indiana state board of registration and examination in optometry issued prior to May 1, 1977, shall be deemed to be licenses for the practice of optometry. All applications for the practice of optometry and all renewal notices sent for the practice of optometry in Indiana shall be for licenses and not for certificates of registration. For the purposes of this chapter, all certificates of registration and renewals for certificates of registration for the practice of optometry shall be the same as licenses and renewals for licenses issued subsequent to May 1, 1977.

As added by Acts 1977, P.L.172, SEC.40.